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Pàrlamaid na h-Alba

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Standards, Procedures and Public Appointments Committee

Subordinate legislation relating to the holding of dual mandates



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For information on the Scottish Parliament contact
Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

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Standards, Procedures and Public Appointments Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- (a) the practice and procedures of the Parliament in relation to its business;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members;
- (d) matters relating to public appointments in Scotland;
- (e) matters relating to the regulation of lobbying; and
- (f) matters falling within the responsibility of the Minister for Parliamentary Business.

2. Where the Committee considers it appropriate, it may by motion recommend that a member's rights and privileges be withdrawn to such extent and for such period as are specified in the motion."



SPPA.Committee@parliament.scot



0131 348 5176

Committee Membership



Convener
Martin Whitfield
Scottish Labour



Deputy Convener
Ruth Maguire
Scottish National Party



Emma Roddick
Scottish National Party



Sue Webber
Scottish Conservative
and Unionist Party



Annie Wells
Scottish Conservative
and Unionist Party

Introduction

1. The Committee has considered the issue of dual mandates - that is someone who is an MSP also holding another elected office or a role in another legislative body - throughout this Session of the Parliament. This has included consideration of [petition PE 1949](#) and exploring questions about dual mandates as part of its scrutiny of the Scottish Elections (Representation and Reform) Bill at Stage 1.

Background

2. At Stage 2 of the Scottish Elections (Representation and Reform) Bill, Graham Simpson MSP lodged amendments that would have provided for the prohibition of dual mandates in respect of Members of the House of Commons, Members of the House of Lords and local authority councillors in Scotland. Following debate, Graham Simpson MSP did not move those amendments. Following discussions, further amendments were lodged at Stage 3 which would enable Regulations to be made to end the holding of dual mandates. These amendments required Scottish Ministers to make Regulations relating to Members of the House of Commons and of the House of Lords and to give a discretionary power to also make Regulations relating to local authority councillors in Scotland.
3. Following the Parliament's agreement to the Bill, the Scottish Government undertook a [consultation on dual mandates](#) from 20 January 2025 to 23 March 2025. The consultation sought views on:
 - The principle of ending dual mandates
 - Any grace period which a person elected as a MSP should be given to leave another office
 - Whether there should be any limitation of an individual's salary for the duration of any grace period
 - Whether there should be any limits on an individual's participation in proceedings of the Scottish Parliament for the duration of any grace period
 - Whether there should be any withdrawal of the right and privileges of an MSP holding a dual mandate for the duration of any grace period.
 - In relation to members of the House of Lords, the consultation also asked whether a Member of that House who is on a leave of absence should be permitted to be an MSP.
4. The [analysis of the Scottish Government's consultation](#) was published on 25 June 2025. [Consultation responses](#) have also been published (where permission to do so was given).
5. Two roundtable events were also held with political parties and relevant stakeholders in April and May 2025.
6. The Committee took evidence from the then Minister for Parliamentary Business on the issue of dual mandates at its [meeting on 12 June 2025](#).

Summary of the provisions made by the Regulations

7. In summary, the Regulations provide:
 - For the ending of dual mandates to be held by Members of the Scottish Parliament
 - Provide time-limited exceptions (grace periods) during which someone who is an MSP is not disqualified. This period is 49 days for Members of the House of Commons and 14 days for Members of the House of Lords. For MSPs who are councillors, the Regulations provide for an exception where the next scheduled local government election is due to occur within 372 days of the election at which the councillor was returned as an MSP, reflecting the current cycle where local government elections take place in the year following a Scottish Parliament election. If an MSP is elected and there is more than 373 days until the next scheduled local government election, the grace period is 49 days.
 - Propose the introduction of salary limitations which would:
 - require the Scottish Parliament to deduct from the person's MSP salary the basic rate of a Councillor's salary
 - amend the Scotland Act 1998 to ensure an MSP does not receive an MSP salary for the period in which they are also entitled to an MP salary.
8. No salary limitation is proposed in relation to Members of the House of Lords. This is intended to reflect that most Members of the House of Lords do not receive a salary but are instead entitled to a daily rate for attendance.
9. The Regulations do not propose any limitation to participation in the proceedings of the Parliament or in relation to the rights and privileges of an MSP during any grace period.

Consideration by the Delegated Powers and Law Reform Committee

10. The Delegated Powers and Law Reform (DPLR) Committee considered the instruments on Tuesday 16 September and report on the instrument. No points were raised on the Orders relating to the House of Lords or to Councillors. In relation to the Order relating to membership of the House of Commons, the DPLR Committee asked the Scottish Government for clarification on the drafting of provisions intended to prevent an MSP who is also an MP from receiving an MSP salary.
11. The questions asked by the DPLR Committee related to “whether the formulation “The Parliament is to make no payment” is sufficiently accurate, given the contrast with the wording of section 81(1) of the Act, under which the Parliament does not itself make the payment of salaries but rather “make[s] provision for the payment” (for example by making provision for this to be done by the Scottish Parliamentary Corporate Body under section 81(5)).” The Scottish Government indicated that it considers the drafting to be sufficiently accurate. In its report, the DPLR Committee states that it:
 - ” “agrees that the provision should achieve the desired legal effect because it specifies “in accordance with section 81(1)”. However, given that this is an amendment to a constitutional Act, the Committee considers it desirable for the provision to be as accurate as possible and to be as consistent as possible with the other provisions of the Act.”
12. The DPLR Committee drew the attention of the Committee to the Regulations on the general reporting ground that on the basis that the “wording of new subsection (2A), to be inserted by regulation 5(c) of the draft instrument into section 82 of the Scotland Act 1998, could be more consistent with the provision in sections 81 and 82 of the Act.”

Consideration by the Standards, Procedures and Public Appointments Committee

13. At its meeting on 2 October, the Committee took evidence from the Minister for Parliamentary Business and Veterans, Graeme Dey MSP, and Scottish Government officials.
14. The Committee sought clarification from the Scottish Government about the processes for ensuring salary limitations could be administered and that matters such as pensions would be taken into account. The Scottish Government indicated that they had discussed these matters with Scottish Parliament officials who had indicated that they are "comfortable that they can administer what [the Scottish Government] have put forward".
15. The Committee also discussed with the Minister and his officials the rationale for the different grace periods that would apply in respect of the different offices and the potential impact of the timing of any by-elections in the case of members of the House of Commons or councillors. This included why the approach had been taken to allowing a 372 day grace period for councillors if the next Scotland-wide local government election is scheduled to take place within that timeframe. The Scottish Government had explained that one of the reasons for this provision was to seek to avoid the need for council by-elections. The Committee explored whether a shorter grace period could have been provided given that no by-election would be scheduled if a councillor vacancy arose within 6 months of the next local government election. The Scottish Government explained:
 - ” "We are seeking to ensure that colleagues have the ability to see out their full term and not create that vacancy. If people are required to resign at that slightly earlier point, there is still the potential for a gap in which members of the public do not have that representation. This period allows them to see their role out to the very end of its term, rather than concluding it slightly earlier."
16. The Committee also explored with the Minister and his officials the point drawn to its attention by the DPLR Committee regarding different terminology used in the Regulations relating to members of the House of Commons compared to that in the Scotland Act 1998. The Scottish Government explained that the language used is different because:
 - ” "The existing reductions in salary in the 1998 act are reductions in salary: a proportion of the pay is taken, but an amount of pay is still paid to the member even while they hold a dual mandate. What the House of Commons regulations do in this case is stop the MSP salary entirely for the dual-mandate period. Therefore, it was felt that the SSI ought to be worded differently, because it does something different, and we ought to be very direct about the fact that it does something different, so that there would be no ambiguity that the salary would not be paid."
17. Following the evidence session, Graeme Dey moved the following motions:

- S6M-18743 - that the Scottish Parliament (Disqualification of Members of the House of Commons) Regulations 2025 be approved
 - S6M-18744 - that the Scottish Parliament (Disqualification of Members of the House of Lords) Regulations 2025 be approved
 - S6M-18745 - that the Scottish Parliament (Disqualification of Councillors) Regulations 2025.
18. The motions were agreed to without division.
19. The evidence taken and the debate can be found in the [Official Report for the SPPA Committee meeting of 2 October 2025](#).

The Committee recommends to the Parliament that the following Regulations be agreed:

- Scottish Parliament (Disqualification of Members of the House of Commons) Regulations 2025 [draft]
- Scottish Parliament (Disqualification of Members of the House of Lords) Regulations 2025 [draft]
- Scottish Parliament (Disqualification of Councillors) Regulations 2025 [draft].

